

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TYRONE HURT,

No. C 12-04186 WHA

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

**ORDER GRANTING
APPLICATION TO PROCEED IN
FORMA PAUPERIS AND
DISMISSING COMPLAINT**

The Court is in receipt of the report and recommendation of dismissal by Magistrate Judge Kandis Westmore (Dkt. No. 4). Pro se plaintiff Tyrone Hurt filed objections to the report and recommendation on October 1, 2012. Having read and considered the above-referenced filings, the Court rules as follows.

It appears from plaintiff's application to proceed *in forma pauperis* that he lacks funds to pay the initial filing fee. Accordingly, plaintiff's application to proceed *in forma pauperis* is hereby **GRANTED**.

Pursuant to 28 U.S.C. § 1915(e), where, as here, a plaintiff proceeds *in forma pauperis*, the district court must dismiss the complaint if the court determines the complaint is frivolous or malicious, or that the plaintiff has failed to state a claim upon which relief can be granted. *See* 28 U.S.C. 1915(e)(2)(B).

Plaintiff's complaint falls within the category of pleadings identified in Section 1915(e)(2)(B)(i) and (ii). Plaintiff makes the following allegations, in one paragraph each: Jim Crow laws seek to disenfranchise eligible voters in violation of the United States Constitution;


1 the execution of Troy Davis on 9/11 was unconstitutional, as is the death penalty; children born
2 to “legitimate pregnancy” have constitutional rights to proper feedings to eliminate childhood
3 obesity, regardless of their race; HIV and AIDS should be eliminated “in the name of human
4 rights”; and “erroneousness” of public school “resegregation” is “in violation of world order.”
5 By way of relief, Plaintiff asks that the United States Constitution, Humanitarian Order, and
6 World Order be complied with, and that he receive one million dollars.

7 Plaintiff objected to the magistrate judge’s report and recommendation, stating that he
8 seeks leave to appeal to the United States Court of Appeals for the Ninth Circuit and seeks the
9 appointment of counsel. The objections are not timely, as they were required to be filed within
10 fourteen days of the filing of the magistrate judge’s report and recommendation. FRCP 72(a).
11 Plaintiff stated without explanation that the order was inconsistent with the Constitution, citing
12 the Constitution, 28 U.S.C. Section 1915, and several dictionaries, including Black’s Law
13 Dictionary on “motions to dismiss.” Plaintiff provided no argument or reasoning beyond these
14 conclusory statements.

15 Plaintiff’s untimely objections fail to address why his complaint should not be dismissed
16 on the ground that it is frivolous or fails to state a claim on which relief can be granted. Plaintiff
17 fails to allege a single cognizable claim. Moreover, there is no indication plaintiff can cure the
18 deficiency. Accordingly, pursuant to 28 U.S.C. Section 1915(e)(2)(B), plaintiff’s complaint is
19 hereby **DISMISSED**. The Clerk shall close the file.

20
21 **IT IS SO ORDERED.**

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23 Dated: October 2, 2012.

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25 _____
26 WILLIAM ALSUP
27 UNITED STATES DISTRICT JUDGE
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